IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 154 OF 2004
IN
SECOND APPEAL NO. 162 OF 2004

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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Shri Uday Warunjikar for the applicant.

Shri T.S. Ingule for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 10TH SEPT., 2004

P.C.:

1. Heard both sides. Perused the record including the affidavit in reply and rejoinder.

2. This is an application for stay of the judgment and decree passed by the Trial Court as well as the lower appellate Court. The record shows that ad-interim order was granted in terms of prayer clause (a) on condition that the decretal amount shall be deposited by the appellant. It is submitted at the bar that the appellant has deposited the amount of Rs.3,07,500/- in the lower Court. The advocate for the respondent submits that the entire amount is not deposited and some amount is deposited. However, the learned advocate for the

appellant undertakes to make good the deficit within the time granted by the Court. In view of this position, the application is made absolute in terms of prayer clause (a) on condition that the remaining amount under decree shall be deposited by the appellant in the Trial Court within four weeks from the date of this order.

The learned advocate for the respondent makes submission that he may be permitted to withdraw the amount as the respondent is a senior citizen and the matter is very old. Considering this aspects, it is hereby directed that the respondent shall withdraw the amount of Rs.3 lacs after giving adequate security to the satisfaction of the lower Court. The remaining amount shall be invested in fixed deposit in any nationalized bank for intitial period of three years.

With this direction, the application stands disposed of with no order as to costs.

C. c. expedited.

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